

BEFORE THE DEVELOPMENT REVIEW COMMISSION
OF THE CITY OF LAKE OSWEGO

-Approved-

APPROVAL OF A DEVELOPMENT REVIEW PERMIT AND) LU 13-0009-1814
A MINOR PARTITION TO CONSTRUCT A 4,400 S.F.) DARRYL & CHRISTINA EDDY
COMMERCIAL BUILDING AND A 7-SPACE PARKING LOT) FINDINGS, CONCLUSIONS & ORDER

NATURE OF APPLICATION

The applicants are requesting approval of the following:

- A minor partition to divide the site into two parcels; and
- A Development Review Permit to construct a 4,430 square foot commercial building (a bank) on Parcel 1 and a 7-space parking lot on Parcel 2.

The site is located at 15955 & 15987 Boones Ferry Road (Tax Lot 2000 of Tax Map 2 1E 08CB).

HEARINGS

The Development Review Commission (Commission) held a public hearing and considered this application at its meeting of May 20, 2013.

The following information was presented to the Commission at the hearing and added into the record:

- Exhibit E29. Revised Elevation Drawings
- Exhibit E30. Revised Site Plan
- Exhibit F8. Memo from the Engineering Division, dated May 20, 2013
- Exhibit G2. Testimony from Cheryl Uchida, dated May 20, 2013

CRITERIA AND STANDARDS

A. City of Lake Oswego Community Development Code (Chapter LOC 50):

LOC 50.02.002	Commercial, Industrial, Mixed Use Zones
LOC 50.03.002	Use Table
LOC 50.04.001.4	Commercial, Mixed Use and Industrial Zones Dimensional Table
LOC 50.04.002	Special Street Setbacks
LOC 50.05.007	Lake Grove Village Center Overlay District
LOC 50.06.002	Parking
LOC 50.06.003.1	Access
LOC 50.06.003.2	On-Site Circulation - Driveways and Fire Access Roads
LOC 50.06.003.3	On-site Circulation – Bikeways, Walkway and Accessways
LOC 50.06.003.5	Transit System
LOC 50.06.004.1	Landscaping, Screening, and Buffering
LOC 50.06.004.2	Fences
LOC 50.06.004.3	Lighting
LOC 50.06.005	Park and Open Space
LOC 50.06.006.3	Drainage Standards
LOC 50.06.008	Utilities
LOC 50.06.011	Vision Clearance
LOC 50.07.003.1	Application Procedures
LOC 50.07.003.3	Public Notice/Opportunity for Public Comment

1	LOC 50.07.003.4	Hearings
2	LOC 50.07.003.5	Conditions on Development
3	LOC 50.07.003.7	Appeals
4	LOC 50.07.003.9	Improvements and Security
5	LOC 50.07.003.10	Certificate of Occupancy
6	LOC 50.07.003.14	Minor Development Decision
7	LOC 50.07.007.3	Platting
8	LOC 50.08.006	LGVC Adjustments
9	LOC 50.09.002.5	Compliance with Approved Permit

10

11 B. City of Lake Oswego Streets and Sidewalks Code [LOC Chapter 42]:

12

13 LOC 42.08.400 - 42.08.470 Streets and Sidewalks

14

15 C. City of Lake Oswego Sign Code [LOC Chapter 47]:

16

17 LOC 47.03.005 - 47.03.030.2 Signs

18

19 D. City of Lake Oswego Tree Code [LOC Chapter 55]:

20

21 LOC 55.08.020 Tree Protection Plan Required

22 LOC 55.08.030 Tree Protection Measures Required

23

24 **CONCLUSION**

25

26 The Commission concludes that LU 13-0009 can be made to comply with all applicable criteria by the
27 application of certain conditions.

28

29 **FINDINGS AND REASONS**

30

31 The Commission incorporates the May 10, 2013, Staff Report (with all exhibits attached thereto) as support
32 for its decision, supplemented by the further findings and conclusion set forth herein. In the event of any
33 inconsistency between the supplementary matter herein and the staff report, the matter herein controls. To
34 the extent they are consistent with the approval granted herein, the Commission adopts by reference its oral
35 deliberations on this matter.

36

37 Following are the supplementary findings and conclusions of this Commission:

38

39 1. The applicants submitted revised elevation drawings (Exhibit E29) to address Condition B(1)(c) in the May
40 10 Staff Report, which required that the east and west elevations be revised to comply with the Side Wall
41 Plane standard in LOC 50.05.007.5.i.ii. The applicants had originally requested a Major LGVC Adjustment
42 to this standard, but asked that the Adjustment be withdrawn since the east and west elevations have
43 been revised to comply with the standard. The Commission finds that the revised elevations in Exhibit E29
44 comply with the Side Wall Plane standard and Condition B(1)(c) should be deleted.

45

46 2. The applicant submitted a revised site plan (Exhibit E30) to address Condition B(2)(a) in the May 10 Staff
47 Report, which required revisions to the public plaza to comply with LOC 50.05.007.5.i.iii(5). The
48 Commission finds that the public plaza as revised in Exhibit E30 substantially complies with LOC
49 50.05.007.5.i.iii(5), but is missing some information to determine full compliance. The Commission
50 concludes that Condition B(2)(a) should be revised to require Exhibit E30 to be modified to illustrate the
51 total square-footage of the portions of the plaza located on Parcel 1, specifications for the plaza paving
52 material, and revised landscaping that complies with the requirements of LOC 50.05.007.5.i.iii(5) and LOC
53 50.05.007.6.

1 3. Staff presented Exhibit F8 to the Commission, which explains why a 15-foot wide public storm drainage
2 easement was being required through the site. Staff clarified that it was not necessary to make Dolan
3 findings for the public storm drainage easement because the applicants chose to convey the stormwater
4 from Oakridge Road through the site rather than constructing a new pipe system to the east along
5 Oakridge Road to the nearest public storm system in Boones Ferry Road.

6
7 4. The Commission received testimony that there is an overall lack of parking in the Lake Grove Village
8 Center (LGVC) Overlay District and that the City’s parking standards are outdated because they don’t
9 require enough parking for certain uses, including banks. The proposed bank is expected to have up to 10
10 employees at any one time, which only leaves 11 of the 21 parking spaces on Parcels 1 and 2 available for
11 customers, two of which are handicap spaces. The number of parking spaces does not appear to be
12 adequate for the use.

13
14 Whether or not the minimum and maximum parking requirements prescribed by the Code actually
15 provides for 100% parking capture for all uses at all times is not a criterion; the question is whether or not
16 the parking criteria has been met. The Commission concludes that the applicants have demonstrated
17 compliance with the parking requirements in LOC 50.06.0002 as discussed on page 25 of the May 10 Staff
18 Report.

19
20 5. Staff submitted to the Commission a May 30, 2013, memorandum explaining the reason for additional
21 revisions to the conditions of approval as tentatively approved by the Commission (see Exhibit F9). Notice
22 of the additional revisions has been given to the applicants and to all persons who testified at the public
23 hearing. No request to reopen the public hearing has been received. For the reasons set forth in the May
24 30, 2013, memorandum, the Commission finds that the additional revisions comply with the applicable
25 criteria.

26
27 **ORDER**

28
29 **IT IS ORDERED BY THE DEVELOPMENT REVIEW COMMISSION of the City of Lake Oswego that:**

- 30
31 1. LU 13-0009 is approved, subject to compliance with the conditions of approval set forth in Subsection 2 of
32 this Order.
33
34 2. The conditions for LU 13-0009 are as follows:

35
36 **A. Prior to Approval of the Final Partition Plat, the Applicants/Owners Shall:**

- 37
38 1. Submit a final plat to City staff for review and signature of approval within one year of the date
39 of this decision. The final plat must be dimensioned as depicted in Exhibit E3 and reference this
40 land use application – City of Lake Oswego Planning and Building Services Department, Case File
41 LU 13-0009. Upon written application, prior to expiration of the one-year period, the City
42 Manager shall, in writing, grant a one-year extension. Additional extensions may be requested in
43 writing and must be submitted to the City Manager for review of the project for conformance
44 with current law, development standards and compatibility with development that may have
45 occurred in the surrounding area. The extension may be granted or denied and, if granted, may
46 be conditioned to require modification to bring the project into compliance with then current
47 law and compatibility with surrounding development.
48
49 2. All plats and public easements submitted to the City of Lake Oswego shall have accompanying
50 vector based electronic drawings or maps consistent with the prevailing technologies in the
51 Civil Engineering and/or Surveying fields (e.g. current or near current versions of AutoCAD).
52 The electronic drawings shall conform to the mapping requirements for plats adopted in O.R.S.
53 Chapter 92.

- 1
2 3. The final plat shall include the following information to the satisfaction of staff:
3
4 a. Provide necessary public right-of-way dedication along the Boones Ferry Road frontage
5 so that the final half street right-of-way dedication line is 50-feet from the center of the
6 right-of-way.
7
8 b. Provide necessary public right-of-way dedication along the Oakridge Road frontage so that
9 the final half street right-of-way dedication line is 30 feet from the center of the right-of-
10 way.
11
12 c. Provide a public access easement to and over the public plaza on Parcel 1 per LOC
13 50.05.007.5.i.iii(4).
14
15 d. Provide a minimum 15-foot wide public drainage easement on Parcels 1 and 2.
16
17 e. Provide private utility easements across Parcels 1 and 2 for the mutual benefit of these
18 parcels.
19
20 4. Submit a preliminary title report or lot book report showing the status of title and any liens and
21 encumbrances.
22

23 **B. Prior to Issuance of any Building Permit, the Applicants/Owners Shall:**
24

- 25 1. Submit final site and building plans for review and approval of staff that are the same or
26 substantially similar to the site plan, grading plan, floor plans, and building elevations illustrated on
27 Exhibits E3, and E7-E30 to the satisfaction of staff, with the following modifications:
28
29 a. The main body and roof of the drive-through ATM shall be painted to match the colors of the
30 building. Alternatively, the roof shall match the aluminum canopies on the building.
31
32 b. The material of the wall along the east and west property lines shall be masonry (smooth
33 concrete with articulate joints) that will be complementary to the materials and architectural
34 style of the building.
35
36 c. Illustrate the location of two covered bicycle parking spaces on the site or within the building.
37 Exterior bike racks shall be complementary to the building colors. If a free standing cover is
38 proposed, the cover shall be designed to be complementary to the buildings in material and
39 colors.
40
41 d. Assure that a minimum of 80% (linear measurement) of the exterior ground floor that abuts
42 the public plaza is designed as storefront with display windows and entry features.
43
44 e. Show locations of all utility vaults and boxes. All such features shall be fully screened.
45
46 2. Submit a revised landscape plan with the following modifications for review and approval of staff:
47
48 a. Revise the public plaza on Parcel 1 in accordance with Exhibit E30 with the following
49 additional information:
50 i. Illustrate the total square-footage of the plaza that is located on Parcel 1 (do not include
51 portions within the public right-of-way).
52 ii. Provide specifications of the paving material in accordance with LOC 50.05.007.i.iii(5)(d).

- 1 iii. Illustrate the location, size and species of all landscaping south of the building on Parcel 1
2 that complies with all of the requirements of LOC 50.05.007.5.i.iii(5) and LOC 50.05.007.6
3 to the satisfaction of staff.
4
- 5 b. Specify that no less than 17 of the proposed trees on the site shall be a minimum of 2-3 inches
6 in caliper at 54 inches above grade at the time of planting.
- 7 c. A minimum of 174 two-gallon shrubs shall be provided on Parcel 1 and a minimum of 64 two-
8 gallon shrubs shall be provided on Parcel 2.
- 9 d. The Crimson Sentry Maples in the interior area of the parking lot (but not around the
10 perimeter of the site) shall be substituted with native or naturalized shade tree species with a
11 canopy and structure that will cast moderate to dense shade and will reach a mature height of
12 at least 30 feet. The trees shall be a minimum of 2-3 inches in caliper at 54 inches above grade
13 at the time of planting.
- 14 e. The landscape strip on Parcel 1 that abuts the westernmost accessible parking space off the
15 northwest corner of the building shall be widened to a minimum of five feet.
- 16 f. Provide a note on the final landscape plan stating that all burlap or wire cages shall be
17 removed from trees and shrub roots prior to planting.
- 18
- 19 3. Submit final construction plans for the public improvements and storm water management
20 facilities, and an itemized cost estimate for review and approval by the City Engineer. The final
21 plans shall conform to the City's design standards and specifications, and shall include the
22 following supplementary materials, design features, and notes:
23
- 24 a. Along the site frontage of Boones Ferry Road:
- 25 i. A 9-foot wide sidewalk (excluding 6-inch curb width) along the site frontage.
26 ii. Provide a minimum 5-foot sidewalk clearance width around street elements such
27 as tree wells, benches, etc.
28 iii. All new utilities shall be installed underground.
29 iv. Design of the driveway approach in compliance with City and AASHTO standards.
30
- 31 b. Along the site frontage of Oakridge Road:
- 32 i. Widen the existing pavement and construct a new concrete curb and gutter along
33 the entire site frontage. The face of curb shall be located 197 feet from the
34 centerline of the right-of-way to accommodate the travel lane and on-street
35 parking.
- 36 ii. Design of an 8-foot wide sidewalk along the site frontage in accordance with LOC
37 50.05.007.b.ii(2)(b), Urban Streetfront Environment. The sidewalk at the terminus
38 point at the west side of the site shall ramp down to the existing edge of
39 pavement. The existing fire hydrant at the west property line along Oakridge Road
40 shall be relocated/replaced to the satisfaction of the City Engineer.
- 41 iii. Design of a public storm sewer conveyance line across the site frontage, including
42 catch basins to manage stormwater runoff. The storm line shall terminate at the
43 west property line of the site and shall be designed to accommodate upstream
44 drainage from the public street.
- 45 iv. Design of a public storm sewer conveyance line through the site to convey storm
46 water runoff from Oakridge Road to Boones Ferry Road. The manhole shall be
47 constructed at all angle points. The storm sewer line shall be centered within the
48 15-foot public storm easement.
- 49 v. Provide a minimum 5-foot sidewalk clearance width around street elements such
50 as tree wells, benches, etc.

- 1 vi. All new utilities shall be installed underground.
- 2 vii. Design of the driveway approach in compliance with City and AASHTO standards.
- 3 vii. Remove the existing catch basin and drywell along the site frontage. Removal of
- 4 the drywell shall be in compliance with the Oregon Department of Environmental
- 5 Quality requirements.
- 6

- 7 4. Construct all public improvements as required by Condition B(3), above, or provide a financial
- 8 guarantee to ensure their construction per LOC 50.07.003.9. The financial guarantee shall be
- 9 based on an engineer's estimate that is based on construction plans that are far enough
- 10 advanced to support the materials and quantities found in the estimate.
- 11
- 12 5. The applicants/owners shall monitor the condition of the pavement of Boones Ferry and
- 13 Oakridge Roads during the entire construction period. If any resulting wear and tear is
- 14 discerned that exceeds the standards of the City Engineer, the applicants/owners shall
- 15 restore the surface of the roadbeds to the satisfaction of the City Engineer.
- 16
- 17 6. Submit a revised Access Master Plan in accordance with Exhibit E11, with the following revisions
- 18 and additions for review and approval of staff.
- 19
- 20 a. Illustrate future pedestrian connections to abutting properties to the east and west.
- 21
- 22 b. State the timing for implementing the access and parking area connections.
- 23
- 24 7. The Access Master Plan shall be signed and recorded by the owners of 4270 Oakridge Road and
- 25 15905 Boones Ferry Road. In the event that these abutting owners refuse to sign the master
- 26 plan, the applicants shall demonstrate that an effort was made to meet with and coordinate with
- 27 these abutting owners.
- 28
- 29 8. Submit a final site plan, storm plan and storm drainage report for the on-site storm water quality
- 30 and detention system, prepared by a registered engineer, for review and approval of staff.
- 31
- 32 9. Submit a final erosion control plan and obtain an erosion control permit from the City.
- 33
- 34 10. Submit a site plan showing the proposed design for the private water and sanitary services to the
- 35 satisfaction of staff. A sanitary clean-out shall be located at the right-of-way line of Oakridge
- 36 Road.
- 37
- 38 11. Submit a revised lighting plan for the on-site parking lot that eliminates light trespass on the
- 39 abutting parcels in compliance with LOC 50.06.004.3.b.ii(2)(d), for review and approval of staff.
- 40
- 41 12. Submit a nonrevocable reciprocal access and parking easement benefiting the abutting
- 42 properties to the east and west (three properties total), and a covenant to participate in the
- 43 maintenance of the shared access parking lot aisles for the completed interconnected parking lot
- 44 and drive aisle in the future, for review and approval of staff. Record these documents following
- 45 approval by staff.
- 46
- 47 13. Submit an Operations and Maintenance Plan for the private on-site storm facilities (including
- 48 detention and water quality facilities) for review and approval of the City Engineer, and record a
- 49 Declaration of Covenant for Operation and Maintenance of Surface Water Management
- 50 Facilities.
- 51
- 52 14. Provide documentation of insurance for the public plaza on Parcel 1 per LOC 50.05.007.5.i.iii(4),
- 53 for review and approval of staff.

1
2 15. Sign a nonremonstrance agreement for future bike lanes along the site frontage on Boones Ferry
3 Road to the satisfaction of staff.
4

5 **C. Prior to Commencing the Street Widening Work in Oakridge Road, the Applicants/Owners Shall:**

6
7 1. Complete the public notice and election requirements prescribed in Section 40 of the City Charter.
8

9 **D. Prior to any Final Building Inspection or Occupancy of the Building, the Applicants/Owners Shall:**

- 10
11 1. Submit a final title report, or lot book report from a title company demonstrating that the
12 partition plat was validly recorded and that the private and public easements and the
13 Operations and Maintenance Plan as required in Condition A(3) and B(13), above, are valid and
14 subsisting, and that Parcels 1 and 2 are either free and clear of liens or encumbrances, or that
15 the holders of the liens and encumbrances consents to the creation and recordation of the
16 easements.
17
18 2. Install all landscaping as shown on Exhibit E21 and modified by Condition B(2), above.
19
20 3. Complete all public improvements as required by Condition B(3), above; submit certified “as-
21 built” drawings complying with the city standards for record drawings; and receive a certificate of
22 completion and acceptance by the City.
23
24 4. Complete construction of all private utility services.
25
26 5. Install the bicycle racks as required by Condition B(1)(d), above.
27
28 6. Provide a one-year guarantee (one 12-month growing season from the date of installation) for all
29 landscape materials pursuant to LOC 50.06.010.2. The guarantee shall consist of a security in the
30 amount of five percent of the total landscaping cost (including labor and cost of landscaping
31 materials).
32
33 7. Perform an inspection of the pavement condition of Boones Ferry and Oakridge Roads to
34 ensure compliance with the requirements of Condition B(5), above, to the satisfaction of
35 the City Engineer. Complete necessary reconstruction of the surface of these streets if
36 needed, to the satisfaction of the City Engineer.
37

38 **E. Prior to Issuance of any Sign Permit, the Applicants/Owners Shall:**

- 39
40 1. Obtain all necessary sign permits. The applicants/owners shall submit sign plans and elevations in
41 accordance with the Sign Code for review and approval of staff. Colors and material of the signs
42 shall be compatible with the architectural details and colors of the approved building in the
43 following manner:
44
45 a. Internally lit cabinet signs shall be prohibited.
46
47 b. Signage on the building shall consist of individual letters.

48 (Note: The Conditions of Approval regarding sign limitations are not exclusive to the requirements
49 and standards that will be reviewed when a sign permit application is submitted; there are
50 additional compatibility standards for signs relating not only to the building itself, but to the
51 surrounding area, in the Sign Code, LOC Chapter 47.)
52

1 **Code Requirements**

- 2
- 3 1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the approval of LU 13-0009 shall expire
- 4 three years following the effective date of this development permit, and may be extended by the City
- 5 Manager pursuant to the provisions of this section.
- 6
- 7 2. **Tree Protection:** Submit a tree protection permit application as required by LOC 55.08.020 and
- 8 55.08.030 for review and approval by staff, including off-site trees that are within the construction zone.
- 9 The plan shall include:
- 10
- 11 a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high cyclone
- 12 fence secured by steel posts around the tree protection zone, or as recommended by the project
- 13 arborist and approved by the City.
- 14
- 15 b. A note stating that no fill or compaction shall occur within the critical root zones of any of the
- 16 trees, or that if fill or compaction is unavoidable, measures will be taken as recommended by a
- 17 certified arborist to reduce or mitigate the impact of the fill or compaction. Such measures should
- 18 be clearly outlined in the tree protection plan. The note shall also inform contractors that the
- 19 project arborist shall be on site and oversee all construction activities within the tree protection
- 20 zone.
- 21
- 22 c. A note that clearly informs all site contractors about the necessity of preventing damage to the
- 23 trees, including bark and root zone. The applicant and contractor(s) shall be subject to fines,
- 24 penalties and mitigation for trees that are damaged or destroyed during construction.
- 25
- 26 d. A sign shall be attached to the tree protection fencing which states that inside the fencing is a tree
- 27 protection zone, not to be disturbed unless prior written approval has been obtained from the
- 28 City Manager and project arborist.
- 29

30 **Notes**

- 31
- 32 1. The applicant is advised to take part in a Post Land Use Approval meeting. City staff would like to
- 33 offer you an opportunity to meet and discuss this decision and the conditions of approval necessary
- 34 to finalize the project. The purpose of the meeting is to ensure you understand all the conditions
- 35 and to identify other permits necessary to complete the project. If you like to take advantage of this
- 36 meeting, please contact the staff coordinator at (503) 635-0290.
- 37
- 38 2. The land use approval for this project does not imply approval of a particular design, product,
- 39 material, size, method of work, or layout of public infrastructure except where a condition of
- 40 approval has been devised to control a particular design element or material.
- 41
- 42 3. Development plans review, permit approval, and inspections by the City of Lake Oswego Planning
- 43 and Building Services Department are limited to compliance with the Lake Oswego Community
- 44 Development Code, and related code provisions. The applicants are advised to review plans for
- 45 compliance with applicable state and federal laws and regulations that could relate to the
- 46 development, i.e., Americans with Disabilities Act, Endangered Species Act. Staff may advise the
- 47 applicants of issues regarding state and federal laws that staff member believes would be helpful to
- 48 the applicants, but any such advice or comment is not a determination or interpretation of federal
- 49 or state law or regulation.
- 50
- 51
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- 53

1 DATED this 3rd day of June, 2013.

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_____/s/ Don Richards_____
Don Richards, Chair
Development Review Commission

_____/s/ Janice Reynolds_____
Janice Reynolds
Administrative Support III

ATTEST:

ORAL DECISION – May 20, 2013

AYES: Creighton, Needham, Johnson, Ahrend
NOES: None
ABSTAIN: None
ABSENT: Richards, Poulson and Rossi

WRITTEN FINDINGS – June 3, 2013

AYES: Richards, Needham, Ahrend and Johnson
NOES: None
ABSTAIN: Poulson
ABSENT: Creighton and Rossi